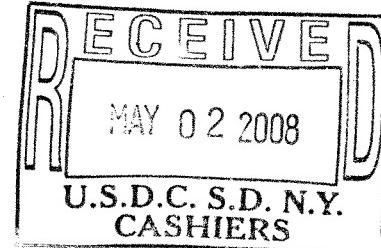


08 CV 4231

**JUDGE**  
 Richard A. Menchini (6057)  
 Edward H. Tasher  
**HOLLAND & KNIGHT LLP**  
 195 Broadway  
 New York, NY 10007  
 (212) 513-3200

Attorneys for Defendant  
 Canadian Commercial Corporation

UNITED STATES DISTRICT COURT  
 FOR THE SOUTHERN DISTRICT OF NEW YORK



ERNESTO and DIANA MIRANDA,

Plaintiff,

- against -

ABEX CORPORATION, f/k/a American Brake Show Company;  
 ALCOA, INC., Individually and as successor in interest to Fairchild Fasteners;  
 AMERICAN REFRACTORIES, INC.;  
 AMERICAN REFRACTORIES, CO.;  
 ANCHOR PACKING COMPANY;  
 ATLAS TURNER;  
 AVOCET ENTERPRISES, INC.;  
 A.W. CHESTERTON CO., INC.;  
 BONDEX INCORPORATED;  
 BOEING INTEGRATED DEFENSE SYSTEMS;  
 BORG WARNER CORPORATION;  
 CANADIAN COMMERCIAL CORPORATION;  
 CFM INTERNATIONAL, INC.;  
 COURTER & COMPANY;  
 CRANE AEROSPACE & ELECTRONICS;  
 CRANE CO.;  
 CRANE PUMPS & SYSTEMS, INC.;  
 CRANE RESISTOFLEX AEROSPACE;  
 CUTLER HAMMER, n/k/a EATON ELECTRICAL, INC.;  
 DANA CORPORATION;  
 DRESSER INDUSTRIES, INC.;

08 Civ. \_\_\_\_( )

**NOTICE OF REMOVAL**

DURABLA MANUFACTURING COMPANY;  
DURAMETTALIC CORPORATION;  
EATON CORPORATION;  
EATON HYDRAULICS, INC.;  
EASTERN REFRACTORIES  
CORPORATION;  
ENPRO INDUSTRIES, INC., Individually and  
as successor in interest to Menasco Inc.;  
FAY, SPOFFARD & THORNDIKE OF NEW  
YORK, INC., f/k/a Wolf & Munier, Inc.;  
FOSTER WHEELER ENERGY CORP.;  
GE AVIATION SYSTEMS LLC;  
GARLOCK SEALING TECHNOLOGIES,  
LLC;  
GENERAL DYNAMICS;  
GENERAL ELECTRIC CORPORATION;  
GENERAL MOTORS CORPORATION;  
GENERAL REFRACTORIES CO.;  
GEORGIA PACIFIC CORPORATION,  
Individually and as successor in interest to  
Consolidated Vultee Aircraft Corporation;  
GOODRICH CORPORATION, f/k/a B.F.  
Goodrich Company;  
GOODYEAR TIRE & RUBBER;  
GOULD PUMPS, INC.;  
GRAYBAR ELECTRIC COMPANY, INC.;  
GRIMES AEROSPACE COMPANY,  
Individually and as successor in interest to  
Midland-Ross Corporation;  
HENKEL CORPORATION;  
HEWLETT PACKARD COMPANY;  
HITCO CARBON & COMPOSITES,  
Individually and as successor in interest to  
Hitco;  
HONEYWELL INTERNATIONAL, INC.,  
f/k/a Allied Signal, Inc. Successor in interest to  
the Bendix Corporation;  
INGERSOLL-RAND COMPANY;  
J.H. FRANCE REFRACTORIES, CO.;  
JOHN CRANE, INC.;  
KENTILE FLOORS, INC.;  
LEAR SEIGLER SERVICES, INC.,  
Individually and as successor in interest to Lear  
Seigler, Inc.;  
LESLIE CONTROLS, INC., f/k/a Leslie  
Corporation;

LOCKHEED MARTIN CORPORATION;  
METROPOLITAN TRANSPORTATION  
AUTHORITY;  
MUNACO PACKING & RUBBER CO.;  
NASCO AIR BRAKES, INC.;  
NORTHROP GRUMAN CORPORATION;  
OLD ORCHARD INDUSTRIAL  
CORPORATION, Individually and as successor  
to Vapor Corporation;  
PARKER AEROSPACE;  
PARKER HANNAFIN CORPORATION;  
PNEUMO ABEX CORPORATION,  
Individually and as successor in interest to Abex  
Corporation f/k/a American Brake Show;  
PRATT & WHITNEY;  
RAILROAD FRICTION PRODUCTS CORP.;  
RHEACO, INC.;  
ROBERT A. KEASBEY CO.;  
ROLLS ROYCE CORPORATION,  
Individually and as successor in interest to  
Allison Engine Company, Inc.;  
SEQUOIA VENTURES, INC., f/k/a Bechtel  
Corporation;  
THE BOEING COMPANY, Individually and as  
successor in interest to McDonnell Douglas;  
THE FAIRCHILD CORPORATION;  
TREADWELL CORPORATION;  
TRIAD INTERNATIONAL MAINTENANCE  
CORPORATION, Individually and as successor  
in interest to Aero Corporation;  
UNISYS CORPORATION;  
UNITED TECHNOLOGIES CORPORATION,  
Individually and as successor in interest to  
United Aircraft Corporation United  
Technologies Building;  
WAYNE WIRE CLOTH PRODUCTS, INC.;  
WESTINGHOUSE AIR BRAKE CO.;  
3M COMPANY, f/k/a Minnesota Mining &  
Manufacturing;

Defendants.

PLEASE TAKE NOTICE that, on this date, defendant Canadian Commercial Corporation ("CCC"), by and through its attorneys, Holland & Knight LLP, respectfully files this Notice of Removal pursuant to 28 U.S.C. §§ 1330, 1441, and 1446, and states as follows:

**BACKGROUND**

1. On or about March 25, 2008, plaintiffs Ernesto and Diana Miranda ("Plaintiffs") commenced an action against CCC and numerous other defendants by filing a Complaint in the Supreme Court of the State of New York, County of New York, Index No. 08-104346 (the "State Court Action."). Upon information and belief, the State Court Action is meant to be included in the New York City Asbestos Litigation ("NYCAL") proceedings.

2. The three-paragraph Complaint filed in the State Court Action adopts "New York Asbestos Litigation Standard Complaint No. 1". CCC did not receive a copy of this Standard Complaint but counsel for CCC has requested a copy from Plaintiffs' counsel.

3. The Complaint filed in the State Court Action alleges that plaintiff Ernesto Miranda has been diagnosed with "mesothelioma" and, upon information and belief, the Plaintiffs allege, among other things, that plaintiff contracted mesothelioma as a result of exposure to asbestos and asbestos-containing products manufactured and/or sold by the various defendants, including CCC.

4. As is demonstrated below, the district courts of the United States have original jurisdiction of this civil action pursuant to 28 U.S.C. § 1330 ("Actions against foreign states").

5. The Southern District of New York embraces the place where the State Court Action is pending.

6. This Notice of Removal is signed subject to Federal Rule of Civil Procedure 11, and is filed within thirty (30) days of CCC's receipt, through service or otherwise, of a copy of

the initial pleading setting forth the claim for relief upon which such action is based, as provided by 28 U.S.C. § 1446.

**SERVICE OF THE SUMMONS AND VERIFIED COMPLAINT**

7. On April 3, 2008, CCC received by certified mail at its offices in Ottawa, Ontario copies of the Summons and Verified Complaint. True and correct copies of all process, pleadings, and orders received by CCC are annexed as Exhibit A and constitute all process, pleadings and orders served in the State Court Action.

8. Thirty (30) days have not expired since CCC first received notice of the State Court Action.

**FOREIGN SOVEREIGN JURISDICTION EXISTS**

9. CCC is a Crown corporation of, and wholly owned by, the Government of Canada. A true and correct copy of the Declaration of Legal Status of Canadian Commercial Corporation is annexed as Exhibit B.

10. CCC is therefore an "agency or instrumentality of a foreign state" within the meaning of the Foreign Sovereign Immunities Act of 1976 ("FSIA"), 28 U.S.C. § 1602 *et. seq.*

11. This action is one over which the district courts of the United States have sole and original jurisdiction by reason of the fact that CCC is an agency or instrumentality of a foreign state within the meaning of 28 U.S.C. § 1603(a). 28 U.S.C. § 1330. Moreover, pursuant to 28 U.S.C. § 1441(d), the claims against CCC shall be heard by this Honorable Court without a jury.

12. Based upon the foregoing, CCC respectfully submits that removal of the State Court Action by CCC to this Court is permissible pursuant to 28 U.S.C. §§ 1330, 1441, and 1446.

**NOTICE AND RESERVATION OF RIGHTS**

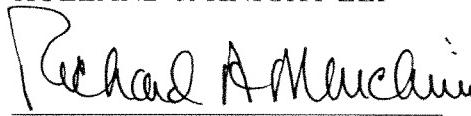
13. CCC is not aware of any related matter pending in any other court.
14. In filing this Notice of Removal, CCC does not waive any defenses that may be available to it.
15. CCC, upon filing this Notice of Removal in the Office of the Clerk of the United States District Court for the Southern District of New York, will, as required by 28 U.S.C. § 1446(d), file a copy of the Notice of Removal with the Clerk of the Supreme Court of the State of New York, County of New York, and will serve a copy of the same upon Plaintiff as well as all adverse parties in this action.

Dated: May 2, 2008  
New York, New York

Respectfully submitted,

HOLLAND & KNIGHT LLP

By:

  
Richard A. Menchini  
Lindsay H. Tasher  
195 Broadway  
New York, NY 10007  
(212) 513-3200  
Attorneys for Defendant  
Canadian Commercial Corporation

To: Patrick J. Timmins, Esq.  
Levy Phillips & Konigsberg, LLP  
800 Third Ave., 13th Floor  
New York, NY 10022  
Attorneys for Plaintiff

# **EXHIBIT A**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
ERNESTO and DIANA MIRANDA,

Plaintiffs,

- against-

ABEX CORPORATION;  
f/k/a American Brake Shoe Company;  
ALCOA , INC.,

Individually and as successor in  
Interest to Fairchild Fasteners;  
AMERICAN REFRactories, INC.;  
AMERICAN REFRactories, CO.;  
ANCHOR PACKING COMPANY;  
ATLAS TURNER, INC.;  
AVOCET ENTERPRISES, INC.;  
A.W. CHESTERTON CO., INC.;  
BONDEX INCORPORATED;  
BOEING INTEGRATED DEFENSE SYSTEMS;  
BORG WARNER CORPORATION;  
CANADIAN COMMERCIAL CORPORATION;  
CARRIER CORPORATION;  
CFM INTERNATIONAL, INC.;  
COURTER & COMPANY;  
CRANE AEROSPACE & ELECTRONICS;  
CRANE CO.;  
CRANE PUMPS & SYSTEMS, INC.;  
CRANE RESISTOFLEX AEROSPACE;  
CUTLER HAMMER,  
n/k/a EATON ELECTRICAL, INC.;  
DANA CORPORATION;  
DRESSER INDUSTRIES, INC.;  
DURABLA MANUFACTURING COMPANY;  
DURAMETTALIC CORPORATION;  
EASTERN REFRactories CORPORATION;  
EATON CORPORATION;  
EATON HYDRAULICS, INC.;  
ENPRO INDUSTRIES, INC.

Individually and as successor in interest  
to Menasco Inc.;  
FAY, SPOFFARD & THORNDIKE OF NEW YORK, INC.  
f/k/a Wolf & Munier, Inc.;  
FOSTER WHEELER ENERGY CORP.;  
GARLOCK SEALING TECHNOLOGIES, LLC;  
GE AVIATION SYSTEMS LLC;  
GENERAL DYNAMICS;

Index No: 08-104346  
DOF: 3/25/08

SUMMONS

Plaintiff Designates  
NEW YORK COUNTY  
as the place of trial

The basis for venue is  
Defendant's place of  
business

Plaintiff resides at:  
1315 Amsterdam Avenue  
New York, NY 10027

NEW YORK  
COUNTY CLERK'S OFFICE

MAR 25 2008

NOT COMPARED  
WITH COPY FILE

GENERAL ELECTRIC CORPORATION;  
GENERAL MOTORS CORPORATION;  
GENERAL REFRACTORIES CO.;  
GEORGIA PACIFIC CORPORATION;  
Individually and as successor in interest  
to Consolidated Vultee Aircraft  
Corporation;  
GOODRICH CORPORATION  
f/k/a B. F. Goodrich Company;  
GOODYEAR TIRE & RUBBER;  
GOULD PUMPS, INC.;  
GRAYBAR ELECTRIC COMPANY, INC.;  
GRIMES AEROSPACE COMPANY,  
Individually and as successor in interest  
to Midland-Ross Corporation;  
HENKEL CORPORATION;  
HERCULES CHEMICAL COMPANY, INC.;  
HEWLETT PACKARD COMPANY;  
HITCO CARBON & COMPOSITES  
Individually and as successor in interest  
to Hitco;  
HONEYWELL INTERNATIONAL, INC.  
f/k/a Allied Signal, Inc. Successor  
in interest to the Bendix Corporation;  
INGERSOLL-RAND COMPANY;  
J.H. FRANCE REFRACTORIES, CO.;  
JOHN CRANE, INC.;  
KENTILE FLOORS, INC.;  
LEAR SEIGLER SERVICES, INC.  
Individually and as Successor in  
Interest to Lear Seigler, Inc.;  
LESLIE CONTROLS, INC.  
f/k/a Leslie Corporation;  
LOCKHEED MARTIN CORPORATION;  
METROPOLITAN TRANSPORTATION AUTHORITY;  
MUNACO PACKING & RUBBER CO.;  
NASCO AIR BRAKES, INC.;  
NORTHROP GRUMMAN CORPORATION;  
OLD ORCHARD INDUSTRIAL CORPORATION  
Individually and as successor to Vapor Corporation;  
PARKER AEROSPACE;  
PARKER HANNIFIN CORPORATION;

PNEUMO ABEX CORPORATION  
Individually and as Successor in interest to  
Abex Corporation f/k/a American Brake Shoe;  
PRATT & WHITNEY;  
RAILROAD FRICTION PRODUCTS CORP.;  
RHEACO, INC.;  
ROBERT A. KEASBEY CO.;  
ROLLS ROYCE CORPORATION,

Individually and as successor in interest to Allison  
Engine Company, Inc.;  
SEQUOIA VENTURES, INC.  
f/k/a BECHTEL CORPORATION;  
THE BOEING COMPANY,  
Individually and as successor in interest to  
McDonnell Douglas;  
THE FAIRCHILD CORPORATION;  
TREADWELL CORPORATION;  
TRIAD INTERNATIONAL MAINTENANCE CORPORATION  
Individually and as successor in interest to Aero Corporation;  
UNISYS CORPORATION;  
UNITED TECHNOLOGIES CORPORATION,  
Individually and as Successor in Interest to  
United Aircraft Corporation United  
Technologies Building;  
WAYNE WIRE CLOTH PRODUCTS, INC.;  
WESTINGHOUSE AIR BRAKE CO.;  
3 M COMPANY  
f/k/a Minnesota Mining & Manufacturing;

X

TO THE ABOVE NAMED DEFENDANTS:

You are hereby summoned to answer in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated:           New York, New York  
                  March 21, 2008

LEVY PHILLIPS & KONIGSBERG, L.L.P.  
Attorneys for Plaintiffs

By:           Patrick J. Timmins, Esq.  
                 800 Third Avenue - 13<sup>th</sup> Floor  
                 New York, New York 10022  
                 (212) 605-6200

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK  
-----X  
ERNESTO and DIANA MIRANDA,

Plaintiff,

- against-

Index No: 08-104346  
DOF: 3/05/08

ABEX CORPORATION  
f/k/a American Brake Shoe Company;  
ALCOA, INC.,

**COMPLAINT**

Individually and as successor in  
Interest to Fairchild Fasteners;  
AMERICAN REFRactories, INC.;  
AMERICAN REFRactories, CO.;  
ANCHOR PACKING COMPANY;  
ATLAS TURNER;  
AVOCET ENTERPRISES, INC.;  
A.W. CHESTERTON CO., INC.;  
BONDEX INCORPORATED;  
BOEING INTEGRATED DEFENSE SYSTEMS;  
BORG WARNER CORPORATION;  
CANADIAN COMMERCIAL CORPORATION;  
CARRIER CORPORATION;  
CFM INTERNATIONAL, INC.;  
COURTER & COMPANY;  
CRANE AEROSPACE & ELECTRONICS;  
CRANE CO.;  
CRANE PUMPS & SYSTEMS, INC.;  
CRANE RESISTOFLEX AEROSPACE;  
CUTLER HAMMER,  
n/k/a EATON ELECTRICAL, INC.;  
DANA CORPORATION;  
DRESSER INDUSTRIES, INC.;  
DURABLA MANUFACTURING COMPANY;  
DURAMETTALIC CORPORATION;  
EATON CORPORATION;  
EATON HYDRAULICS, INC.;  
EASTERN REFRactories CORPORATION;  
ENPRO INDUSTRIES, INC.

Individually and as successor in interest  
to Menasco Inc.;

FAY, SPOFFARD & THORNDIKE OF NEW YORK, INC.  
f/k/a Wolf & Munier, Inc.;  
FOSTER WHEELER ENERGY CORP.;  
GE AVIATION SYSTEMS LLC;  
GARLOCK SEALING TECHNOLOGIES, LLC;  
GENERAL DYNAMICS;  
GENERAL ELECTRIC CORPORATION;

GENERAL MOTORS CORPORATION;

GENERAL REFRACTORIES CO.;

GEORGIA PACIFIC CORPORATION;

Individually and as successor in interest  
to Consolidated Vultee Aircraft  
Corporation;

GOODRICH CORPORATION

f/k/a B. F. Goodrich Company;

GOODYEAR TIRE & RUBBER;

GOULD PUMPS, INC.;

GRAYBAR ELECTRIC COMPANY, INC.;

GRIMES AEROSPACE COMPANY,

Individually and as successor in interest  
to Midland-Ross Corporation;

HENKEL CORPORATION;

HERCULES CHEMICAL COMPANY, INC.;

HEWLETT PACKARD COMPANY;

HITCO CARBON & COMPOSITES

Individually and as successor in interest  
to Hitco;

HONEYWELL INTERNATIONAL, INC.

f/k/a Allied Signal, Inc. Successor  
in interest to the Bendix Corporation;

INGERSOLL-RAND COMPANY;

J.H. FRANCE REFRACTORIES, CO.;

JOHN CRANE, INC.;

KENTILE FLOORS, INC.;

LEAR SEIGLER SERVICES, INC.

Individually and as Successor in  
Interest to Lear Seigler, Inc.;

LESLIE CONTROLS, INC.

f/k/a Leslie Corporation;

LOCKHEED MARTIN CORPORATION;

METROPOLITAN TRANSPORTATION AUTHORITY;

MUNACO PACKING & RUBBER CO.;

NASCO AIR BRAKES, INC.;

NORTHROP GRUMAN CORPORATION;

OLD ORCHARD INDUSTRIAL CORPORATION

Individually and as successor to Vapor Corporation;

PARKER AEROSPACE;

PARKER HANNIFIN CORPORATION;

PNEUMO ABEX CORPORATION

Individually and as Successor in interest to

Abex Corporation f/k/a American Brake Shoe;

PRATT & WHITNEY;

RAILROAD FRICTION PRODUCTS CORP.;

RHEACO, INC.;

ROBERT A. KEASBEY CO.;

ROLLS ROYCE CORPORATION,

Individually and as successor in interest to

Allison Engine Company, Inc.;

SEQUOIA VENTURES, INC.

f/k/a BECHTEL CORPORATION;

THE BOEING COMPANY,

Individually and as successor in interest to

McDonnell Douglas;

THE FAIRCHILD CORPORATION;

TREADWELL CORPORATION;

TRIAD INTERNATIONAL MAINTENANCE CORPORATION

Individually and as successor in interest to Aero Corporation;

UNISYS CORPORATION;

UNITED TECHNOLOGIES CORPORATION,

Individually and as Successor in Interest to

United Aircraft Corporation United

Technologies Building;

WAYNE WIRE CLOTH PRODUCTS, INC.;

WESTINGHOUSE AIR BRAKE CO.;

3 M COMPANY

f/k/a Minnesota Mining & Manufacturing;

-----X

TO THE ABOVE NAMED DEFENDANTS:

Plaintiffs, by their attorneys, LEVY PHILLIPS & KONIGSBERG, LLP, for their Complaint, respectfully alleges as follows:

1. Plaintiff repeats and re-alleges New York Asbestos Litigation Standard Complaint No. 1 as if fully incorporated herein.
2. Plaintiff is a citizen of the State of New York.
3. Plaintiff, Ernesto Miranda, has been diagnosed with mesothelioma and meets the minimum requirement for activation into the active docket pursuant to the Case Management Order governing these actions.

Dated: New York, New York  
March 21, 2008

LEVY PHILLIPS & KONIGSBERG, L.L.P.  
Attorneys for Plaintiffs

By:   
Patrick J. Timmins  
800 Third Avenue - 13<sup>th</sup> Floor  
New York, New York 10022  
(212) 605-6200



Continuum Cancer Centers of New York

Division of Thoracic Surgery

St. Luke's-Roosevelt Hospital Center  
 1000 Tenth Avenue, Suite 2B-07  
 New York, NY 10019  
 Tel: 212 523 7475  
 Fax: 212 523 8011

**Division of Thoracic Surgery**

Cliff P. Connery, M.D., Chief

December 19, 2007

Gary Burke, M.D.  
 1090 Amsterdam Avenue  
 New York, NY 10025

Re: Miranda, Ernesto

Ernesto Miranda had presented with a massive bloody pleural effusion and on evaluation after ultimately undergoing a right thoracoscopy drainage and biopsy, was found to have epithelioid mesothelioma. This mesothelioma appears to be relatively localized and given his age of 56, and good performance status a consideration should be given to undergoing extra-pleural pneumectomy or extended resection and multimodality treatment.

This is a formidable procedure and given the relative rarity of the disease, the experience has been concentrated in just a few centers of excellence. It has been our experience and that of many others that treatment should be delivered surgically by physicians who have dedicated a significant portion of their time, energies, and interest to this disease. We therefore have recommended that Mr. Miranda see Dr. Raja Flores, Thoracic Surgeon at Memorial Sloan-Kettering who has a significant interest and experience in treating patients with this disease.

Dr. Flores has agreed to see Mr. Miranda, and I am confident that Mr. Miranda will have the benefit of his wealth of experience and expertise in this disorder to help choose the best combination of therapies including extra-pleural pneumectomy should that be necessary.

Please advise me if I can be of further assistance in this matter.

Thank you again,

Sincerely,

Cliff P. Connery, M.D.

Continuum Health Partners, Inc.



University Hospital and  
 Manhattan Campus for  
 the Albert Einstein College  
 of Medicine



Roosevelt Hospital Center  
 Columbia University College  
 of Physicians & Surgeons



University Hospital of  
 Columbia University College  
 of Physicians & Surgeons



Primary Clinical Teaching  
 Affiliate of SUNY—  
 Health Science Center  
 at Brooklyn



Affiliated Teaching  
 Hospital of New York  
 Medical College

COPY

Roosevelt Hospital  
Operative Report

Patient: MIRANDA, Ernesto MRN: 100004572269 Operation Date: 12/06/2007  
DOB: 01/21/1951 Age: 56 Sex: M PRISM Serial #: 1105833629

DATE OF OPERATION: 12/06/2007

PREOPERATIVE DIAGNOSIS: RIGHT PLEURAL EFFUSION AND DYSPNEA

POSTOPERATIVE DIAGNOSIS: MALIGNANT RIGHT PLEURAL EFFUSION

OPERATION: FLEXIBLE FIBEROPTIC BRONCHOSCOPY  
AND RIGHT THORACOSCOPY DRAINAGE,  
EFFUSION, PLEURAL BIOPSY, AND TALC  
PLEURODESIS, INTERCOSTAL NERVE  
BLOCK

SURGEON: Cliff Connery, M.D.

ASSISTANT: Dr. Iranmanesh

ANESTHESIA: GENERAL

## FINDINGS:

Flexible bronchoscopy. There was no proximal right-sided endobronchial lesion. There was extensive compression of the right middle lobe bronchus. There was some edema in the right upper lobe bronchus. On thoracoscopy, there was more than 2400 mL of grossly bloody pleural effusion. The lung was compliant. There was induration in the lower lobe. There was some yellowish discoloration on the right lower lobe and some possible micronodularity and induration. In the parietal pleura, there was small micronodular areas, in addition there was a 3 x 3 cm fleshy parietal pleural lesion was also necrotic. Multiple biopsies of the parietal pleural were obtained. That was consistent with non-small cell carcinoma. Therefore since the lung was compliant, we proceeded with a talc pleurodesis and intercostal nerve blocks.

## PROCEDURE:

The patient was brought to the operating room and placed in the supine position. He was intubated with double-lumen tube. He underwent flexible fiberoptic bronchoscopy with results as much before. There was extensive compression, but no proximal endobronchial lesion. The double-lumen tube was then positioned properly and then patient was turned in lateral decubitus position with the right side up, properly padded and positioned, steriley prepared and draped. Thoracostomy was made in the midaxillary line inferiorly just the anterior to the iliac

COPY

Roosevelt Hospital  
Operative Report

Patient: MIRANDA, Ernesto . MRN:100004572269 Operation Date:12/06/2007  
DOB:01/21/1951 Age:56 Sex:M PRISM Serial#:1105833629  
spine. Grossly bloody fluid was drained. We then placed 10-mm working thoracoscope within and inspected the pleural with the results as mentioned before. We then utilized the suction component on that scope and drained more of the bloody effusion and then uncovered a larger fleshy lesion on the parietal pleural and get multiple biopsies of that. The results are mentioned before.

Then with test inflation showing that the lung was compliant, we then proceeded to evacuate the rest of the blood and then perform an aerosolized talc pleurodesis with 4 g of talc that was insufflated into the right chest with good distribution.

A 32-French channel drain was then placed within to make it cephalad, secured with silk and used Prolene. The hemostasis was assured. Prior to this, the wound was dressed. The procedure was concluded and then the chest tube was clamped before the lung was re-expanded.

Blood loss was just about 5 mL. Replaced none. Fluid was crystalloid.

D: 12/06/2007,14:07  
12/07/2007,10:15  
JOB#: 4397692

Legal Signer: CLIFF CONNERY  
Electronically Signed:

AT

ID#: 101075

Via CPLR §312

ALCOA, INC.,  
 Individually and as successor in interest  
 to Fairchild Fastners  
 c/o Corporate Service Co.  
 80 State Street  
 Albany, NY 12207-2543

AMERICAN REFRACTORIES CO.  
 1250 Clarion Street  
 Reading, PA 19601

ANCHOR PACKING COMPANY  
 120 East Avenue, Suite 101  
 Rochester, NY 14604-7356

ATLAS TURNER, INC.  
 854 Blvd. Oullet West  
 Thetford Mines, Quebec G6G785

AVOCET ENTERPRISES, INC.  
 c/o SCN & R Registered Agent, Inc.  
 8000 Sears Tower  
 Chicago, IL 60606

A.W. CHESTERTON CO., INC.  
 Middlesex Industrial Park  
 Rt. 93  
 Stoneham, MA 02180

BOEING INTEGRATED DEFENSE  
 SYSTEMS  
 2201 Seal Beach Boulevard  
 Seal Beach, CA 90740-5603

BORG WARNER CORPORATION  
 3850 Hamlin Road  
 Auburn, Hills, MI 48326

CANADIAN COMMERCIAL  
 CORPORATION  
 50 O'Connor Street, 11<sup>th</sup> Floor  
 Ottawa, Ontario K1A0S6

CFM INTERNATIONAL, INC.  
 1 Neuman Way  
 Cincinnati, OH 45215-0514 COURTER

COURTER & COMPANY INC.  
 Richard Leff, Esq.  
 McGIVNEY & KLUGER, P.C.  
 80 Broad Street, 23<sup>rd</sup> Floor  
 New York, New York 10004

CRANE AEROSPACE & ELECTRONICS  
 KELTEC OPERATION  
 84 Hill Avenue NW,  
 Fort Walton Beach, FL 32254-3858

CRANE CO.  
 c/o CT Corporation System  
 111 Eighth Avenue  
 New York, NY 10011

CRANE PUMPS & SYSTEMS, INC.  
 420 3<sup>rd</sup> Street  
 Piqua, OH 45356-3918

CRANE RESISTOFLEX AEROSPACE  
 2575 W. 5<sup>TH</sup> Street  
 Jacksonville, FL 32254-2066

DANA CORPORATION  
 P.O. Box 1000  
 Toledo, OH 43697-1000

DURABLA MANUFACTURING COMPANY  
 790 E. Market St., # 235  
 West Chester, Pennsylvania, 19382

DURAMETALLIC CORPORATION  
 5215 N. O'Connor Blvd., Suite 2300  
 Irving, TX 75039

EASTERN REFRACTORIES CORPORATION  
 Corporate/Service Address:  
 c/o Laura B. Hollman, Esq.  
 McMAHON MARTINE & GALLAGHER  
 90 Broad Street, 14<sup>th</sup> Floor  
 New York, New York 10004

ENPRO INDUSTRIES, INC.,  
(Individually and as Successor to  
Menasco Inc. c/o CT Corporation  
Systems  
225 Hillborough Street  
Raleigh, NC 27603

EATON CORPORATION;  
CT corporation System  
111 Eighth Avenue  
New York, NY 10011

EATON HYDRAULICS, INC.;  
111 Eighth Avenue  
New York, NY 10011

FAY SPOFFARD & THORNDIKE  
OF NEW YORK, INC. f/k/a Wolff &  
Munier, Inc.  
111 John St., Suite 245  
New York, New York 10035

FOSTER WHEELER ENERGY  
CORPORATION  
Perryville Corporate Park  
P.O. Box 4000  
Clinton, NJ 08809

GARLOCK, INC.  
c/o CT Corp.  
111 Eighth Avenue  
New York, NY 10011

GENERAL DYNAMICS,  
Individually and as successor in interest  
to Consolidated Vultee Aircraft  
Corporation  
3190 Fairview Park Drive  
Falls Church, VA 22042

GE AVIATION SYSTEMS LLC  
c/o Corporation System  
111 Eight Avenue  
New York, NY 10011

GENERAL ELECTRIC CORPORATION  
Henry J. King,, Jr., Esq.  
Managing Attorney  
Electric Insurance Company  
152 Conant Street  
Beverly, MA 01915

GENERAL MOTORS CORPORATION,  
as Successor in Interest to Delco Products  
a Division of General Motors  
c/o CT Corp.  
111 Eighth Avenue  
New York, NY 10011

GENERAL REFRactories CO.  
225 City Avenue, Suite 114  
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133 Peachtree St., N.E.  
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111 South Street  
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Individually and as successor in interest to Hitco  
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3 Corbett Way  
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347 Madison Avenue  
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MUNACO PACKING & RUBBER  
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325 West 16<sup>th</sup> Street  
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Irvine, CA 92618-1814

PARKER HANNIFIN CORPORATION  
6035 Park Boulevard  
Cleveland, OH 44124-4141

PNEUMO ABEX CORPORATION  
Individually and as Successor in interest to Abex  
Corporation f/k/a American Brake Shoe;  
c/o The Prentice Hall Corp. System Inc.  
80 State Street  
Albany, NY 12207

PRATT WHITNEY  
400 Main Street  
East Hartford, CT 06108-0968

RAILROAD FRICTION PRODUCTS CORP.  
1001 Air Brake Avenue  
Wilmerding, PA 15148  
&  
c/o The Trust Corporation Company  
Corporation Trust Center  
1209 Orange Street  
Wilmington, DE 19801

RHEACO, INC.  
1801 West Jefferson Street  
Grand Prairie, TX 75051-1328

ROBERT A. KEASBEY CO.  
Corporate/Service Address:  
c/o Anna DiLonardo, Esq.  
WEINER LESNIAK, LLP  
888 Veterans Memorial Highway  
Suite 540  
Hauppauge, NY 11788

ROLLS ROYCE CORPORATION,  
Individually and as successor in interest  
to Allison Engine Company, Inc.;  
c/o CT Corporation Service Company  
80 State Street  
Albany, NY 12207

THE BOEING COMPANY  
Individually and as successor in interest  
to McDonnell Douglas  
c/o Corporation Service System  
80 State Street  
Albany, NY 11207-2543

THE FAIRCHILD CORPORATION  
1750 Tysons Boulevard, Suite 1400  
McLean, VA 11102

TREADWELL CORPORATION  
c/o Chuck McGivney, Esq.  
McGIVNEY & KLUGER, P.C.  
80 Broad Street, 23<sup>rd</sup> Floor  
New York, New York 10004

TRIAD INTERNATIONAL  
MAINTENANCE CORPORATION  
individually and as successor in interest  
to Aero Corporation  
623 Radar Road  
Greensboro, NC 27410

UNISYS CORPORATION  
Unisys Way  
Blue Bell, PA 19424-0001

UNITED TECHNOLOGIES  
CORPORATION, Individually and as  
successor in interest to United Aircraft  
Corporation  
United Technologies Building  
Hartford, CT 06101

WAYNE WIRE CLOTH PRODUCTS,  
INC.  
200 E. Dresden Street NE  
Kalkaska, MI 49646

Personally Served:

METROPOLITAN TRANSPORTATION  
AUTHORITY  
347 Madison Avenue  
New York, New York 10017

SECRETARY OF STATE BCL 306/307

ABEX CORPORATION  
f/k/a American Brake Shoe Company;  
AMERICAN REFRactories, INC.;  
BONDEX INCORPORATED;  
CARRIER CORPORATION;  
CUTLER HAMMER;  
n/k/a EATON ELECTRICAL, INC.;  
DRESSER INDUSTRIES, INC.;  
GOODRICH CORPORATION  
f/k/a B.F. Goodrich Company;  
GOODYEAR TIRE & RUBBER;  
GOULDS PUMPS INCORPORATED  
HONEYWELL INTERNATIONAL, INC.  
f/k/a Alliedsignal, Inc., as successor-in-interest to  
The Bendix Corporation;  
SEQUOIA VENTURES, INC.  
f/k/a BECHTEL CORPORATION  
WESTINGHOUSE AIR BRAKE CO.; and  
3M COMPANY f/k/a MINNESOTA MINING &  
MANUFACTURING CO.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORKX  
ERNESTO MIRANDA and DIANA MIRANDA,

Plaintiff,

- against -

ABEX CORPORATION, *et al.*,

Defendants.

X  
STATEMENT OF SERVICE BY MAIL  
AND ACKNOWLEDGMENT OF  
RECEIPT BY MAIL OF SUMMONS  
AND COMPLAINT

INDEX NO. 08 - 104346

CANADIAN COMMERCIAL CORPORATION  
50 O'Connor Street, 11<sup>th</sup> Floor  
Ottawa, Ontario K1A0S6

The enclosed Summons and Complaint are served pursuant to § 312-a of the Civil Practice Law and Rules.

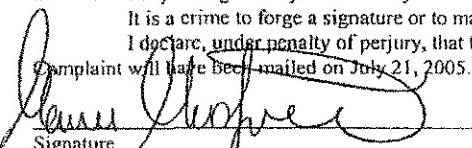
To avoid being charged with the expense of service upon you, you must sign, date and complete the Acknowledgment part of this form and mail or deliver one copy of the completed form to the sender within thirty (30) days from the date you receive it. You should keep a copy for your records or your attorney. If you wish to consult an attorney, you should do so as soon as possible before the thirty (30) days expire.

If you do not complete and return the form to the sender within thirty (30) days, you (or the party on whose behalf you are being served) will be required to pay any expenses incurred in serving a summons and complaint in any other manner permitted by law, and the cost of such service as permitted by law will be entered as a judgment against you.

If you have received a Complaint with this statement, the return of this statement and Acknowledgment does not relieve you of the necessity to answer the Complaint. The time to answer expires twenty (20) days after the day you mail or deliver this form to the sender. If you wish to consult an attorney, you should do so as soon as possible before the twenty (20) days expire.

If you are served on behalf of a corporation, unincorporated association, partnership or other entity, you must indicate under your signature your relationship to the entity. If you are served on behalf of another person and you are authorized to receive process, you must indicate under your signature your authority.

It is a crime to forge a signature or to make a false entry on this statement or on the Acknowledgment.

I declare, under penalty of perjury, that this Statement of Service by Mail and Acknowledgment of Receipt by Mail of Summons and Complaint will have been mailed on July 21, 2005.  
Signature  
Levy Phillips & Konigsberg, 800 Third Avenue, New York, New York 10022  
Address

March 28, 2008

Date of Signature

## ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT

I received a Summons and Complaint in the above-captioned matter at [INSERT ADDRESS] 50 O'Connor St. 11<sup>th</sup> Floor  
OTTAWA, ONTARIO, CANADA

## PLEASE CHECK ONE OF THE FOLLOWING:

## IF 2 IS CHECKED, COMPLETE AS INDICATED

I am not in the military service.

I am in military service and my rank, serial number and branch of service are as follows:

Rank: \_\_\_\_\_

Branch of Service: \_\_\_\_\_

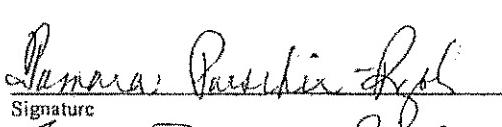
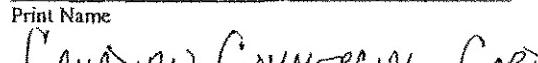
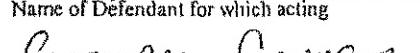
Serial Number: \_\_\_\_\_

## TO BE COMPLETED REGARDLESS OF MILITARY STATUS:

Date: APRIL 7/08

(Date this Acknowledgment is executed)

I affirm the above as true under penalty of perjury.

  
Signature  
Print Name  
Name of Defendant for which acting  
Position with Defendant for which acting

Please Complete All Blanks Including Dates

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----x  
IN RE: NEW YORK CITY ASBESTOS LITIGATION  
-----x

ERNESTO MIRANDA and DIANA MIRANDA,

Index No. 08-104346

Plaintiffs,

- against -

ANSWER TO COMPLAINT

ABEX CORPORATION, et. al.,

Defendants.

-----x

Defendant, Flowserv Corporation as successor in interest to Durametallic Corporation, incorrectly sued herein as "Durametallic Corporation" (hereinafter "Durametallic") by its attorneys, Segal McCambridge Singer & Mahoney, Ltd. for its answer to the complaint, allege on information and belief:

1. Denies all material allegations in the plaintiffs' Complaint as they pertain to Durametallic.
- / 2. Denies knowledge or information sufficient to form a belief as to the truth of each and every other allegation contained in plaintiffs' Complaint.

**AFFIRMATIVE DEFENSES**

3. The venue of this action is improper.
4. Plaintiffs' Complaint fails to set forth a cause of action upon which relief can be granted.

5. Durametallic is a foreign business corporation, to wit, plaintiffs cannot establish personal jurisdiction over this defendant within this Court and Venue.

6. Plaintiffs' cause of action is barred by the applicable Statute of Limitations.

7. Plaintiffs' Complaint fails to allege any cause of action specific to Durametallic.

8. Durametallic was improperly served with process.

9. Durametallic was not negligent.

10. Durametallic was not reckless.

11. Durametallic did not engage in misconduct or willful misconduct.

12. Durametallic did not act with wanton disregard for the rights, safety, and position of the Plaintiff or any other person.

13. Durametallic did not distort or cause to be distorted any medical examinations, results, or data.

14. Durametallic did not edit or alter medical literature.

15. Durametallic did not attempt to prevent the publication of medical literature.

16. Durametallic did not distort or cause to be distorted medical information.

17. Any asbestos products which may have been sold by Durametallic were not inherently defective, ultra hazardous, dangerous, deleterious, poisonous, and/or otherwise legally harmful.

18. Any asbestos products which may have been sold or used by Durametallic were not unsafe.

19. Any asbestos products which may have been sold or used by Durametallic were not incorrectly packaged.

20. Durametallic did not fail to adequately test any asbestos products which it might have sold or used.

21. Any acts or omissions of Durametallic alleged to constitute negligence were not substantial causative factors of the injuries and/or losses alleged to have been sustained.

22. The injuries and/or losses alleged to have been sustained were caused entirely by or contributed to by the negligent acts or omission of individuals and/or entities other than Durametallic.

23. Any asbestos products which may have been sold or used by Durametallic may have been substantially changed in their condition after said products left the possession of Durametallic.

24. Durametallic provided all necessary, required, and adequate warnings or instructions.

25. Negligent acts and/or omissions of individuals and/or entities other than Durametallic constituted intervening and/or superseding acts of negligence.

26. Durametallic extended no warranty to the plaintiff.

27. Durametallic did not breach any warranty or warranties it may have extended.

28. Plaintiff failed to provide Durametallic with proper and timely notice of any alleged breached warranty.

29. Durametallic did not take part in and was not a part of or party to any conspiracy.

30. Durametallic did not make any misrepresentation and/or commit any fraudulent acts.

31. Durametallic did not distribute its products without proper and adequate identification labeling.

32. Any asbestos products which may have been sold and/or used by Durametallic were not within the exclusive control of Durametallic.

33. Durametallic entered into no tacit agreement and/or industry wide standards or procedures as alleged.

34. The imposition of punitive damages violates the Due Process Clause of the United States Constitution and the Constitution of the State of New York.

35. The imposition of punitive damages violates the Equal Protection Clause of the United States Constitution and the Constitution of the State of New York.

36. In the event Plaintiffs recover a verdict or judgment against this Defendant, then said verdict or judgment must be reduced pursuant to CPLR 4544(C) by those amounts which have replaced or indemnified or will, with reasonable certainty, replace or indemnify Plaintiffs in whole or in part, for any past or future claimed economic loss, from any collateral source such as insurance, social security, worker's compensation, or employee benefit programs.

37. The imposition of punitive damages violates the United States Constitution's Eighth Amendment guarantee against excessive fines.

38. That insofar as the Complaint and each cause of action considered separately, alleges a cause of action accruing before October 1, 1975, any recovery by plaintiffs for each such cause of action is barred by reason of contributory negligence or assumption of risk of plaintiffs.

39. All causes of action pleaded in the Complaint have not been maintained in a timely fashion and each plaintiff has neglected same and should be barred by the doctrine of laches.

40. All claims brought under New York Law, L. 1986 C. 682 § 4 (enacted August 31, 1986) are time-barred in that said statute is in violation of the Constitution of the United States and the Constitution of the State of New York.

41. This action must be dismissed because plaintiffs have not joined necessary parties to the adjudication of the claims asserted in the Complaint, in whose absence complete relief cannot be accorded and whose absence impedes the ability of this answering defendant, to protect its interests.

42. In the event plaintiff was employed by any of the defendants herein, then plaintiff's sole and exclusive remedy is under the Workers' Compensation Law of the State of New York.

43. That at all of the times during the conduct of its corporate operations, the agents, servants or employees of this answering defendant utilized proper methods in the conduct of its operations, in conformity with the available knowledge and research of the scientific and industrial communities.

44. Plaintiffs lack the requisite capacity, standing and authority to bring this action, as plaintiff are not real parties in interest.

45. That to the extent the plaintiffs seek to maintain causes of action on behalf of any decedents, said plaintiffs lack capacity and/or standing to maintain such causes of action against Durametallic.

46. Plaintiffs failed to mitigate or otherwise act to lessen or reduce the injuries alleged in the Complaint.

47. The damages allegedly sustained by plaintiffs were caused, in whole or in part, through the operation of nature.

48. All defenses which have been or will be asserted by other defendants and/or any defendants in this action, are adopted and incorporated by reference as if fully set forth at length herein as defenses to plaintiffs' Complaint. In addition, Durametallic will rely upon any and all other defenses which become available or appear during discovery proceedings in this action and

hereby specifically reserves the right to amend its Answer for the purpose of asserting such additional affirmative defenses.

49. Any and all risks, hazards, defects and dangers alleged are of an open, obvious, apparent nature, inherent and known or should have been known to plaintiff, and the injuries and damages alleged to have been sustained were caused in whole or in part by the culpable conduct of plaintiff.

50. The amounts recoverable by plaintiffs are subject to limitation pursuant to Section 1601, Civil Practice Laws and Rules, by reason of the culpable conduct of other person(s) who are, or with reasonable diligence could have been made party defendant(s) to this action, or pursuant to Section 15-108, General Obligations Law, by reason of a prior settlement between plaintiff and said person(s), or by reason of the fact that punitive damages are not recoverable.

#### CROSS-CLAIMS

51. Any damages sustained by the plaintiffs were caused in whole or in part by the acts or omissions of other defendants, who are or may be liable to the defendants answering hereby for contribution on the basis of their equitable shares of responsibility, or for indemnity on the basis of a contract between them, actual or implied.

WHEREFORE, defendant demands judgment dismissing the complaint and all cross-claims against them, or, in the event that they are adjudged liable, granting judgment over, or apportioning such liability in accordance with their equitable shares of responsibility, and awarding the costs of this action, together with such other and further relief as to the court may seem just.

Dated: New York, New York  
April 16, 2008

Yours, etc.

SEGAL McCAMBRIDGE SINGER &  
MAHONEY, LTD.  
Attorneys for Defendant,  
Flowserve Corporation as successor in interest to  
Durametallic Corporation

By: M. Axelrod  
MADINA AXELROD  
830 Third Avenue, 4<sup>th</sup> Floor  
New York, NY 10022  
(212) 651-7500

To: LEVY PHILLIPS & KONIGSBERG, L.L.P.  
Attorneys for Plaintiffs  
800 Third Avenue, 13<sup>th</sup> Floor  
New York, NY 10022  
(212) 605-6200

ALL DEFENSE COUNSEL

VERIFICATION

MADINA AXELROD, an attorney duly admitted to practice in the Court of the State of New York and designated as attorney for the defendant Flowserv Corporation as successor in interest to Durametallic Corporation, incorrectly sued herein as "Durametallic Corporation" (hereinafter "Durametallic") in the above-entitled action, affirms the following statements to be true under the penalties of perjury, pursuant to Rule 2106 of the CPLR:

That he has read the foregoing ANSWER and knows the contents thereof; that the same is true to his own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters he believes them to be true.

Affiant further says that the source of his information and the grounds of his belief are derived from the files, books and records maintained in the normal course of business of the Law Offices of Segal McCambridge Singer & Mahoney, Ltd. and statements made to him by officers or agents of DURAMETALLIC CORPORATION.

This Verification is made by affiant and not by defendant because defendant resides outside the County of New York where affiant maintains his office.

Dated: New York, New York  
April 16, 2008

Yours, etc.

SEGAL McCAMBRIDGE SINGER &  
MAHONEY, LTD.  
Attorneys for Defendant,  
Flowserv Corporation as successor in interest to  
Durametallic Corporation

By: M. Axelrod  
MADINA AXELROD  
830 Third Avenue, 4<sup>th</sup> Floor  
New York, NY 10022  
(212)651-7500

DEFENDANTS ADDRESSES:

Via CPLR §312

ALCOA, INC., Individually and as successor in interest to Fairchild Fastners c/o Corporate Service Co. 80 State Street Albany, NY 12207-2543	CFM INTERNATIONAL, INC. 1 Neuman Way Cincinnati, OH 45215-0514 COURTER
AMERICAN REFRACTORIES CO. 1250 Clarion Street Reading, PA 19601	COURTER & COMPANY INC. Richard Leff, Esq. McGIVNEY & KLUGER, P.C. 80 Broad Street, 23 <sup>rd</sup> Floor New York, New York 10004
ANCHOR PACKING COMPANY 120 East Avenue, Suite 101 Rochester, NY 14604-7356	CRANE AEROSPACE & ELECTRONICS KELTEC OPERATION 84 Hill Avenue NW, Fort Walton Beach, FL 32254-3858
ATLAS TURNER, INC. 854 Blvd. Oullet West Thetford Mines, Quebec G6G785	CRANE CO. c/o CT Corporation System 111 Eighth Avenue New York, NY 10011
AVOCET ENTERPRISES, INC. c/o SCN & R Registered Agent, Inc. 8000 Sears Tower Chicago, IL 60606	CRANE PUMPS & SYSTEMS, INC. 420 3 <sup>rd</sup> Street Piqua, OH 45356-3918
A.W. CHESTERTON CO., INC. Middlesex Industrial Park Rt. 93 Stoneham, MA 02180	CRANE RESISTOFLEX AEROSPACE 2575 W. 5 <sup>TH</sup> Street Jacksonville, FL 32254-2066
BOEING INTEGRATED DEFENSE SYSTEMS 2201 Seal Beach Boulevard Seal Beach, CA 90740-5603	DANA CORPORATION P.O. Box 1000 Toledo, OH 43697-1000
BORG WARNER CORPORATION 3850 Hamlin Road Anburn, Hills, MI 48326	DURABLA MANUFACTURING COMPANY 790 E. Market St., # 235 West Chester, Pennsylvania, 19382
CANADIAN COMMERCIAL CORPORATION 50 O'Connor Street, 11 <sup>th</sup> Floor Ottawa, Ontario K 1A0S6	DURAMETALLIC CORPORATION 5215 N. O'Connor Blvd., Suite 2300 Irving, TX 75039
	EASTERN REFRactories CORPORATION Corporate/Service Address: c/o Laura B. Hollman, Esq. McMAHON MARTINE & GALLAGHER 90 Broad Street, 14 <sup>th</sup> Floor New York, New York 10004

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Henry J. King., Jr., Esq.  
Managing Attorney  
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Individually and as Successor in Interest  
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Cleveland, OH 44124-4141

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Albany, NY 12207

PRATT WHITNEY  
400 Main Street  
East Hartford, CT 06108-0968

RAILROAD FRICTION PRODUCTS CORP.  
1001 Air Brake Avenue  
Wilmerding, PA 15148  
&  
c/o The Trust Corporation Company  
Corporation Trust Center  
1209 Orange Street  
Wilmington, DE 19801

RHEACO, INC.  
1801 West Jefferson Street  
Grand Prairie, TX 75051-1328

ROBERT A. KEASBEY CO.  
Corporate/Service Address:  
c/o Anna DiLonardo, Esq.  
WEINER LESNIAK, LLP  
888 Veterans Memorial Highway  
Suite 540  
Hauppauge, NY 11788

ROLLS ROYCE CORPORATION,  
Individually and as successor in interest  
to Allison Engine Company, Inc.;  
c/o CT Corporation Service Company  
80 State Street  
Albany, NY 12207

Personally Served:

METROPOLITAN TRANSPORTATION  
AUTHORITY  
347 Madison Avenue  
New York, New York 10017

THE BOEING COMPANY  
Individually and as successor in interest  
to McDonnell Douglas  
c/o Corporation Service System  
80 State Street  
Albany, NY 11207-2543

THE FAIRCHILD CORPORATION  
1750 Tysons Boulevard, Suite 1400  
McLean, VA 11102

TREADWELL CORPORATION  
c/o Chuck McGivney, Esq.  
McGIVNEY & KLUGER, P.C.  
80 Broad Street, 23<sup>rd</sup> Floor  
New York, New York 10004

TRIAD INTERNATIONAL  
MAINTENANCE CORPORATION  
Individually and as successor in interest  
to Aero Corporation  
623 Radar Road  
Greensboro, NC 27410

UNISYS CORPORATION  
Unisys Way  
Blue Bell, PA 19424-0001

UNITED TECHNOLOGIES  
CORPORATION, Individually and as  
successor in interest to United Aircraft  
Corporation  
United Technologies Building  
Hartford, CT 06101

WAYNE WIRE CLOTH PRODUCTS,  
INC.  
200 E. Dresden Street NE  
Kalkaska, MI 49646

Index No. 08-104346

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

IN RE: NEW YORK CITY ASBESTOS LITIGATION

ERNESTO MIRANDA and DIANA MIRANDA,

Plaintiffs,

- against -

ABEX CORPORATION, et. al.,

Defendants.

ANSWER TO COMPLAINT

*SEGAL McCAMBRIDGE SINGER & MAHONEY, LTD.*

Attorneys for Defendant,  
FLOWSERVE CORPORATION AS SUCCESSOR IN INTEREST TO  
DURAMETALLIC CORPORATION

830 Third Avenue, 4<sup>th</sup> Floor  
New York, NY 10022  
(212) 651-7500

*Due and timely service is hereby admitted.*

*New York, N.Y. ...., 200...*

*Esq.*

*Attorney for .....*

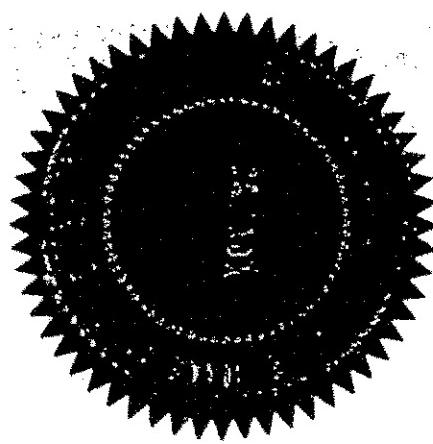
## **EXHIBIT B**

## DECLARATION OF LEGAL STATUS OF CANADIAN COMMERCIAL CORPORATION

I, Michel L. Chartrand, Lawyer to the Canadian Commercial Corporation and a legal officer with the Department of Justice of Canada, declare that the following is a description of the legal status of the Canadian Commercial Corporation:

- (i) the Corporation is a federal Crown corporation, incorporated in 1946 by Act of Parliament, known as the *Canadian Commercial Corporation Act*;
- (ii) the Corporation was established essentially to assist in the development of trade between Canada and other nations;
- (iii) the Corporation is, by law, for all of its activities, an agent of Her Majesty the Queen in right of Canada and its powers may only be exercised as such an agent;
- (iv) the Corporation is exempted by the laws of Canada from payment in Canada of any taxes, including income tax;
- (v) the Corporation reports to the Minister for International Trade and is accountable, through this Minister, to the Parliament of Canada
- (vi) a special budget is voted each year by the Parliament of Canada for the operation of the Corporation, as part of the Main Estimates of the Government of Canada;
- (vii) the Corporation's auditor is the Auditor General of Canada;
- (viii) pursuant to section 97 of the *Financial Administration Act*, R.S.C. 1985, c. F-11, contracts signed in the name of the Corporation have the same legal effect as those signed by and in the name of Her Majesty the Queen in right of Canada and, accordingly, Her Majesty the Queen in right of Canada is ultimately responsible for any debts and liabilities incurred by the Corporation as a result of its operations.

CANADIAN COMMERCIAL CORPORATION


Michel L. Chartrand

Legal Counsel to the Canadian Commercial Corporation and  
Lawyer of the Department of Justice of Canada, this 15th  
day of October, 2004, City of Ottawa, Province of Ontario,  
Canada